UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

VIEWPOINTE ARCHIVE SERVICES, LLC, *Plaintiff,* v. DATATREASURY CORPORATION, *Defendant.*	§	CIVIL ACTION NO. 2:05-CV-459

NOTICE OF DISMISSAL

The above-captioned declaratory judgment action was initially brought by Viewpointe Archive Services LLC ("Viewpointe") in the Northern District of Texas. Recently the Northern District court transferred Viewpointe's declaratory judgment action to the Eastern District, where DataTreasury Corporation ("DataTreasury") has an action pending against Viewpointe, *DataTreasury Corporation v. Viewpointe Archive Services, LLC*, 2:05-CV-290 (E.D. Tex. filed June 28, 2005). Viewpointe currently has a motion before this Court to dismiss DataTreasury's complaint for improper venue. Viewpointe does not concede that venue lies appropriately in this District merely by virtue of the transfer of the above captioned declaratory judgment action. Consequently, Viewpointe comes now to request this Court dismiss without prejudice its claims against DataTreasury in the above-captioned declaratory action pursuant to Fed. R. Civ. P. 41(a)(1)(i).

Dated: October 7, 2005 Respectfully Submitted,

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/s/ Melvin R. Wilcox, III
Melvin R. Wilcox, III
Attorney-in-Charge
Texas State Bar No. 21454800
WILSON, SHEEHY, KNOWLES, ROBERTSON & CORNELIUS, P.C.
One American Center
909 ESE Loop 323
Suite 400
Tyler, TX 75701
Tel: (903) 509.5000
Fax: (903) 509.5091
Email: mrw@wilsonlawfirm.com

Daniel A. DeVito
SKADDEN, ARPS, SLATE, MEAGHER & FLOM L.L.P.
Four Times Square
New York, New York 10036
Tel: (212) 735.3000
Fax: (212) 735.2000
Email: ddevito@skadden.com

Attorneys for Plaintiff
VIEWPOINTE ARCHIVE SERVICES, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who have consented to electronic service on this the 7th day of October 2005. Local Rule CV-5(a)(3)(A).

/s/ Melvin R. Wilcox, III
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